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PROPOSED ELECTRIC ENERGY
EFFICIENCY RULES FOR THE PROPOSED
RULEMAKING ON ELECTRIC ENERGY
EFFICIENCY RULES

Docket No. RE-00000C-09-0427

COMMENTS OF FREEPORT-
MCMORAN COPPER & GOLD
INC. AND ARIZONANS FOR
ELECTRIC CHOICE AND
COMPETITION REGARDING
THE DRAFT PROPOSED
ELECTRIC ENERGY
EFFICIENCY RULES

Freeport-McMoRan Copper & Gold Inc. and Arizonans for Electric Choice and Competition (hereafter collectively "AECC") hereby submit the following Comments concerning the Draft Proposed Electric Energy Efficiency Rules.

I. General Comments

A. Interpretation of Energy Efficiency Standard

AECC is deeply concerned about the proposed language in R14-2-2404(A), which states:

"By December 31, 2020, an affected utility shall, through DSM measures and DSM programs, reduce its retail electricity sales, measured in kWh, to a point 22% below the affected utility's retail electricity sales for the year 2005."

As drafted, the language appears to require each affected utility's retail electricity sales to be absolutely below a targeted historical level. AECC hopes that this is not the actual intent of this provision, as such a requirement would have a potentially devastating impact on the Arizona economy. Arizona's population will continue to grow. It is

1 essential that Arizona's economy and its industrial/commercial output be permitted to
2 expand along with it. Expansion of industrial/commercial output will require increased
3 kWh consumption, all other things being equal. The requirements as drafted are
4 tantamount to outlawing economic growth. If this is the intent, AECC vigorously opposes
5 this provision.

6 A far preferable interpretation of the Energy Efficiency Standard shown in R14-2-
7 2404(G) is that it represents a growth-adjusted target, rather than an absolute reduction
8 from 2005 sales levels. Viewed in this manner, the values in the table would represent the
9 cumulative amount of energy savings measured with respect to 2005, but with new each
10 year's incremental savings measured from the most recent year's baseline consumption.
11 Pursuant to this interpretation, kWh consumption in the year 2020 would be lower than it
12 otherwise would have been absent DSM by an amount equal to 22% times 2005 kWh.
13 This is a very challenging target. But the absolute level of retail kWh sales could still be
14 greater than 2005 levels because of underlying population and economic growth.

15 B. Need for Mandatory Time of Use Rates

16 Before committing to the funding required to meet the proposed standards, utilities
17 should be required to file, and the Commission should adopt, mandatory time-of-use rates
18 for all customer classes. From a public policy perspective, it is inconsistent to impose
19 rigorous DSM standards without also committing to send customers proper price signals.

20 C. Need To Consider Annual Rate Impact

21 The calculation of the benefit from an investment in DSM necessarily requires the
22 projection of energy savings over a period of time, typically the life of the investment.
23 Similarly, a supply-side resource produces kWh over the life of the supply-side
24 investment. However, in contrast to the recovery of supply-side capital costs, which
25 occurs over the life of the investment, DSM capital costs are typically expensed and
26 recovered at the front-end of the investment. For this reason, even cost-effective DSM

1 investments can create significant rate impacts. AECC recommends that the Commission
2 adopt a "circuit breaker" or maximum annual rate increase that can be adopted to
3 implement this rule. AECC proposes that the "circuit breaker" be set no greater than 1.0
4 percent annually.

5 **II. Specific Comments**

6 **A. Demand Response and Load Management**

7 R14-2-2404(C). Demand response and load management programs can make a
8 valuable contribution to reducing utility peak demands. AECC recommends that there be
9 a greater opportunity for demand response and load management to contribute to meeting
10 the Energy Efficiency Standards.

11 **B. Customer Exemption**

12 R14-2-2408(C) and (E). AECC recommends the following change: Insert
13 "customer or" prior to "customer class" in Paragraphs (C) and (E). This change will
14 accommodate an individual customer exemption pursuant to Commission Decision No.
15 67744 in Docket No. E-01345A-03-0437. This Decision provides that a customer with a
16 single-site load greater than 20 MW that can demonstrate an active DSM program can
17 petition the Commission for an exemption from the APS DSM adjustor.

18 **C. Independent Program Administrators**

19 R14-2-2416(B). AECC is concerned that this provision, which permits the
20 establishment of independent program administrators, may unduly increase program
21 administrative costs, thereby reducing the funds that are available to make DSM
22 investments.

23 **D. Self-Direction**

24 AECC proposes to add a section to the Rules incorporating the self-direction
25 provisions that are included in the APS Settlement Agreement filed June 12, 2009 in
26 Docket No. 01345A-08-0172.

1 RESPECTFULLY SUBMITTED this 13th day of November 2009.

2 FENNEMORE CRAIG, P.C.

3
4 By: 

5 C. Webb Crockett

6 Patrick J. Black

7 3003 N. Central Avenue, Ste. 2600

8 Phoenix, AZ 85012-2913

9 Attorneys for Freeport-McMoRan Copper & Gold Inc.
10 and Arizonans for Electric Choice and Competition

11 **ORIGINAL** and 13 **COPIES** of the foregoing
12 **FILED** this 13th day of November 2009 with:

13 Docket Control
14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington
16 Phoenix, Arizona 85007-2927

17 **COPY** of the foregoing was **HAND-DELIVERED**
18 this 13th day of November 2009 to:

19 Janice Alward
20 Legal Division
21 Arizona Corporation Commission
22 1200 West Washington Street
23 Phoenix, Arizona 85007

24 Steve Olea, Director
25 Utilities Division
26 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

By: 

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